IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

OP.No. 5269 of 2000(B)

PETITIONER:

K.V.SOMAN, S/O.KUNJAN, AGED 66 YEARS,
EXECUTIVE ENGINEER, ELECTRICAL (RETIRED),
PWD, RESIDING AT 'PRASANTHIL', THEVALLY P.O.,
KOLLAM.

BY ADV. SRI.C.UNNIKRISHNAN

RESPONDENTS:
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1. **GOVERNMENT OF KERALA, REPRESENTED BY ITS PRINCIPAL SECRETARY, PUBLIC WORKS (A) DEPARTMENT, TRIVANDRUM.**

2. **THE CHIEF ENGINEER, ADMINISTRATION, PUBLIC WORKS DEPARTMENT, TRIVANDRUM.**

BY GOVERNMENT PLEADER SMT. T.B. RAMANI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON 23/08/2007 DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.8769/2000 IN O.P.NO.5269/2000 B

DISMISSED

23/08/2007 **SD/- THOTTATHIL B.RADHAKRISHNAN,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE G.O.(P) 97/88/(192)/DTD. 8/02/1988 ISSUED BY THE ADDITIONAL SECRETARY, FINANCE (PRC) DEPARTMENT, SECRETARIAT, TRIVANDRUM.**

EXT.P2: **COPY OF THE ORDER NO.ECI-35200/90 DTD. 29/10/1990 ISSUED BY THE 2ND RESPONDENT.**

EXT.P3: **COPY OF THE LETTER DTD. 25/11/1999 NO.ECI-44358/98 ISSUED BY THE 2ND RESPONDENT.**

EXT.P4: **COPY OF THE LETTER NO.1113/A1/99/PWD DTD. 27/01/2000 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**

/TRUE COPY/

P.S.TO JUDGE

KSS

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.5269 of 2000-B

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Dated this the 23rd day of August, 2007.

JUDGMENT

Petitioner challenges Ext.P4, whereby his claim for time bound higher grade has been rejected on the basis that in terms of Ext.P1 Government Order dated 8-2-1988, the petitioner is disentitled to such benefit. The stand taken by the Government in Ext.P4 is that the petitioner had four regular promotions, while the eligibility of the Government servant for time bound higher grade for 10 years and 20 years in the last promoted post is available in terms of Ext.P1 Government Order only for those employees who had availed only two levels of promotions. The claim of the petitioner was, therefore, rejected on the ground that he had more than two promotions and therefore, not entitled to

the benefit.

2. On the strength of Ext.P1, the petitioner contends that it is not the intention in Ext.P1 to confine the benefit only to those persons who had obtained only two promotions. Such a restriction has been illegally read into Ext.P1, the petitioner contends. The respondents have placed a counter affidavit reiterating the stand contained in the impugned order.

3. By GO(P).515/85/Fin. dated 16-9-1985, employees in the revised scales of pay ranging from Rs.550-800 to Rs.1150-2270 were entitled to be granted higher grade on completion of ten years of service and a second higher grade after, either ten years' service in the first higher grade or a total service of 20 years in the two grades together, whichever is earlier. By GO(P).373/86/(59)/Fin. dated 23-5-1986, it was clarified that in the case of those employees

whose entry cadre is any one of the revised scales of pay in the above range, if they had got promotion on a normal basis, they will be eligible for the benefit of second higher grade on completion of 10 years of service in the promoted grade or a total service of 20 years in the entry grade and the promoted post put together. Ext.P1 Government Order, GO(P).97/88/(192)/Fin. dated 8-2-1988 was issued clarifying that even in the case of employees who had two levels of promotion, under the liberlised scheme of time-bound higher grade promotion, they will be eligible for a higher grade after 10 years of service and a second higher grade after 20 years of service in the last promoted post in the regular line provided its scale of pay is within the aforesaid range. That Government Order was issued to clear a doubt emanating from GO(P).373 that the intention of the Government while sanctioning the scheme was to ensure that that at least two promotions are to be available to the employees. So much so, the provision in Ext.P1 Government Order is not a new

restriction imposed by the Government. It only says that the provisions in Ext.P1 would apply even to cases of employees who had two levels of promotions. This does not exclude the entitlement of persons with more number of promotions in the regular stream. Under the aforesaid circumstances, it has to be held that the clarification given as per Ext.P1 does not provide that a person who is stagnating for 10 years in the last promoted post is not entitled to higher grade after 10 years of service even if he has enjoyed four regular promotions, coming over to the last promoted post.

For the foregoing reasons, Ext.P4 is quashed and the Government are directed to re-consider the claim of the petitioner for grant of higher grade on the basis of what is stated above and issue orders accordingly within an outer limit of four months from the date of receipt of a copy of this judgment. Since the petitioner is a pensioner, the orders as aforesaid shall be positively issued within the outer limit

ordered above. All arrears on account of such fixation and consequential revision shall be released to the petitioner within a period of two months therefrom. The claim for interest is refused. No costs.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.5269 of 2000-B

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JUDGMENT

Dated: 23rd August, 2007.